

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

DAVID JAMES LANCASTER,

Plaintiff,

v.

KING COUNTY,

Defendant.

Case No. C17-0459-RSM-MAT

ORDER DECLINING TO SERVE
COMPLAINT AND GRANTING
PLAINTIFF LEAVE TO AMEND

Plaintiff David Lancaster has submitted to the Court for filing a civil rights complaint under 42 U.S.C. § 1983. The Court, having reviewed plaintiff's complaint, hereby finds and ORDERS as follows:

(1) Plaintiff is currently confined at the King County Regional Justice Center in Kent, Washington. (*See* Dkt. 1-1 at 2.) He asserts in his complaint that after arriving at the King County Jail in Seattle on the morning of February 25, 2017, he began experiencing severe chest pain and difficulty breathing. (*Id.* at 3.) Plaintiff states that he notified a corrections officer of his need for medical care, but no medical attention was forthcoming. (*Id.*) Instead, plaintiff claims, he was transferred to solitary confinement for three days and never received any medical care. (Dkt. 1-1 at 3.) Plaintiff maintains that he is now scared to ask for medical attention, or to grieve this issue,

ORDER DECLINING TO SERVE COMPLAINT
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1 because the last time he requested care he was put in solitary confinement. (*Id.*) Plaintiff identifies
2 King County as the lone defendant in this action, and he asks that the County be ordered to pay
3 for him to be seen by a cardiologist of his choosing, and that the County pay all related medical
4 expenses. (*See id.* at 2, 4.)

5 (2) In order to sustain a civil rights action, a plaintiff must show (1) that he suffered a
6 violation of rights protected by the Constitution or created by federal statute, and (2) that the
7 violation was proximately caused by a person acting under color of state or federal law. *See*
8 *Crumpton v. Gates*, 947 F.2d 1418, 1420 (9th Cir. 1991). To satisfy the second prong, a plaintiff
9 must allege facts showing how individually named defendants caused, or personally participated
10 in causing, the harm alleged in the complaint. *See Arnold v. IBM*, 637 F.2d 1350, 1355 (9th Cir.
11 1981).

12 A defendant cannot be held liable solely on the basis of supervisory responsibility or
13 position. *Monell v. Department of Social Servs., of City of New York*, 436 U.S. 658, 691-694
14 (1978). Rather, a plaintiff must allege that a defendant's own conduct violated the plaintiff's civil
15 rights. *City of Canton, Ohio v. Harris*, 489 U.S. 378, 385-90 (1989). A local government unit or
16 municipality can be sued as a "person" under § 1983. *Monell*, 436 U.S. at 691. However, a
17 municipality cannot be held liable under § 1983 solely because it employs a tortfeasor. *Id.* A
18 plaintiff seeking to impose liability on a municipality under § 1983 must identify a municipal
19 "policy" or "custom" that caused his or her injury. *Bryan County Commissioners v. Brown*, 520
20 U.S. 397, 403 (1997) (citing *Monell* 436 U.S. at 694).

21 (3) The Court declines to order that plaintiff's complaint be served because plaintiff
22 fails to allege any viable claim against King County, the only defendant named in this action. The
23 County may not be held liable in this civil rights action solely because it employs individuals

1 whom plaintiff believes caused him harm. If plaintiff wishes to pursue a claim against King
2 County, he must identify the constitutional harm he believes he suffered, he must identify the
3 County policy or custom which caused that harm, and he must set forth specific facts
4 demonstrating the County's involvement in the alleged civil rights violation.

5 Plaintiff may also elect to pursue claims against individual employees of King County if
6 he believes specific employees caused him harm. If plaintiff wishes pursue claims against
7 individual King County employees, he must clearly identify each employee he wishes to proceed
8 against, he must identify the constitutional right violated by the conduct of each employee, and he
9 must set forth specific facts demonstrating that each named employee personally participated in
10 causing him harm of federal constitutional dimension.

11 (4) Plaintiff may file an amended complaint curing the above noted deficiencies within
12 ***thirty (30) days*** of the date on which this Order is signed. The amended complaint must carry the
13 same case number as this one. If no amended complaint is timely filed, the Court will recommend
14 that this action be dismissed under 28 U.S.C. § 1915(e)(2)(B) for failure to state a claim upon
15 which relief may be granted.

16 Plaintiff is advised that an amended pleading operates as a *complete* substitute for an
17 original pleading. See *Ferdik v. Bonzelet*, 963 F.2d 1258, 1262 (9th Cir.) (citing *Hal Roach*
18 *Studios, Inc. v. Richard Feiner & Co., Inc.*, 896 F.2d 1542, 1546 (9th Cir. 1990) (as amended),
19 *cert. denied*, 506 U.S. 915 (1992)). Thus, any amended complaint must clearly identify each
20 intended defendant, the constitutional claim(s) asserted, the specific facts which plaintiff believes
21 support each claim against each defendant, and the specific relief requested.

22 (5) The Clerk is directed to send plaintiff the appropriate forms so that he may file an
23 amended complaint. The Clerk is further directed to send copies of this Order to plaintiff and to

1 the Honorable Ricardo S. Martinez.

2 DATED this 29th day of March, 2017.

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5 Mary Alice Theiler
6 United States Magistrate Judge
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